

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

UNITED STATES OF AMERICA

CRIMINAL NO. – 04-CR-10111- MEL

v.

JERMAINE ANDERSON

MOTIONS FOR DOWNWARD DEPARTURES

The defendant, Jermaine Anderson, hereby through his counsel submits the following motions for downward departures pursuant to the Sentencing Guidelines and for a sentence called for less than the applicable guidelines pursuant to 18 U.S.C. 3553 (a).

THE DEFENDANT'S CRIMINAL HISTORY OVER REPRESENTS THE SERIOUSNESS OF HIS CRIMINAL HISTORY

Pursuant to USSG Sec. 4A1.3 the defendant moves for a downward departure because the defendant's criminal history is over represented in the pre-sentence report. The defendant filed objections as to the adequacy of the evidence supporting the validity of the convictions, however, assuming their correctness for this motion, they still over represent the defendant's criminal history.

MENTAL AND EMOTIONAL CONDITION AND ALCOHOL AND DRUG ABUSE

Pursuant to USSG Sec. 5H1.3 and USSG Sec. 5H1.4 the defendant moves for a downward departure on the grounds of his mental condition and his addiction and abuse of drugs and alcohol. The presentence report indicates that the defendant had a very difficult time growing up in the United States. He was picked on by the other children in the neighborhood because of his speech. As the facts in the report suggest, these factors along with his essentially fatherless upbringing led him to alcohol and drug abuse and are clearly contributing factors to his depressed condition for which he is being treated while incarcerated.

CULTURAL ASSIMILATION

The defendant moves for a downward departure on the grounds of his difficulty in assimilating into the culture of the United States. The Offender Characteristics section of the presentence report suggest that Mr. Anderson had a difficult time assimilating and this should be taken into consideration in the determination of his sentence. This

departure has been recognized by the Fifth Circuit in *United States v. Rodriguez-Montelongo*, 263 F.3d 429(2001).

COLLATERAL CONSEQUENCES FORM ALIEN STATUS

The defendant moves for a downward departure on the grounds that the defendant will be deported upon his completion of his sentence and not be allowed to return to the United States. This ground for departure has been recognized by United States v. Lopez-Salas, 266 F.3d 842(8th Cir. 2001).

The defendant,
JERMAINE ANDERSON
By his attorney,

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CERTIFICATE OF SERVICE

I , Walter H. Underhill, Esquire, hereby certify that I have served a copy of this pleading upon the United States Attorney's Office and the Probation Office by facsimile on March 7, 2005.

SIGNED: '/s/Walter H. Underhill, Esquire'

DATE: March 7, 2005